

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

STEPHANIE MARIA CUNNINGHAM,

Plaintiff,

v.

KILOLO KIJAKAZI, ACTING
COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

Case No. 1:23-cv-00298-HBK

ORDER GRANTING PARTIES'
STIPULATED MOTION TO REMAND
UNDER SENTENCE FOUR OF 42 U.S.C. §
405(g), REVERSING FINAL DECISION AND
REMANDING CASE¹

(Doc. No. 16)

ORDER MOOTING PLAINTIFF'S MOTION
FOR SUMMARY JUDGMENT

(Doc. No. 12)

Pending before the Court is the parties' joint motion to remand filed September 7, 2023. (Doc. No. 16). Plaintiff Stephanie Maria Cunningham and the Commissioner of Social Security agree that this case should be remanded for further administrative proceedings under sentence four of 42 U.S.C. § 405(g). (*Id.*).

The United States Supreme Court held that the Social Security Act permits remand in conjunction with a judgment either affirming, reversing, or modifying the Secretary's decision.

¹ Both parties have consented to the jurisdiction of a magistrate judge in accordance with 28 U.S.C. §636(c)(1). (Doc. No. 6).


1 *See Melkonyan v. Sullivan*, 501 U.S. 89, 97-98 (1991) (addressing issue of attorney’s fees under
2 the Equal Access to Justice Act and calculating deadline using date of final judgment). The
3 *Melkonyan* court recognized 42 U.S.C. § 405(g) contemplates only two types of remand –
4 sentence four or sentence six. *Id.* at 98. A sentence four remand authorizes a court to enter “a
5 judgment affirming, modifying, or reversing the decision of the Secretary, with or without
6 resetting the cause for a rehearing.” *Id.* (other citations omitted).

7 The Court grants the parties’ motion to remand under sentence four and reverses the
8 Commissioner’s final decision. As agreed upon by the parties, upon remand, the Commissioner
9 will offer Plaintiff an opportunity for a hearing, consider all pertinent issues *de novo*, further
10 develop the record as necessary, and issue a new decision.

11 Accordingly, it is **ORDERED**:

- 12 1. Pursuant to sentence four of 42 U.S.C. § 405(g), the Court grants the joint motion to
13 remand (Doc. No. 16) and REVERSES the Commissioner’s decision. This case is
14 REMANDED to the Commissioner of Social Security for further proceedings
15 consistent with this Order.
- 16 2. A motion for attorney fees may be filed within thirty (30) days.
- 17 3. Plaintiff’s Motion for Summary Judgment (Doc. No. 12) is MOOT.
- 18 4. The Clerk shall enter judgment in favor of Plaintiff, terminate any deadlines, and close
19 this case.

20
21 Dated: September 8, 2023


HELENA M. BARCH-KUCHTA
UNITED STATES MAGISTRATE JUDGE